ELECTION DECISION.

Following is the full text of the Supreme court opinion in the much mooted election contest case of Morris L. Ritchie vs the state canvassing board as partially published in the NEWS Monday:

In the Supreme Court of the State of Utah, September term, 1896.

Morris L. Ritchie, plaintiff, vs Morgan Richards, state auditor, James Chipman, State treasurer, and A. C. Bishop, attorney general, (board of canvassers,) defendants.

Zane, C. J.:

The plaintiff is one of the judges of the Third judicial district of the State of Utah, appointed by the Governor in June 1st, to fill a vacancy caused by the resignation of Judge LeGrand Young, whose term of office extended to the first Monday of January, 1901.

In pursuance of an act entitled "An act relating to and making sundry provisions concerning elections," in force April 5th, 1896, Sess. Laws, Utah, of that year, page 369; and of an act in relation to elections, defining offenses against the same, and providing punishment therefore, in force March 28th, id., page 183, a general election was held on the 3rd day of November, of that year, at which a person was elected to fill the vacancy so held by the plaintiff.

The plaintiff asks the court to issue a writ prohibiting the defendants from canvassing the returns of the election of his successor, held and conducted according to those laws.

The plaintiff insists that they are void, and that therefore the writ should issue.

The journals of the Legislature do not expressly show how the votes were taken on the final passage of the bills; but the plaintiff claims that the entries authorize the inference that they were viva voce.

The fact is entered upon the journals of the respective houses that the presiding officer of the house over which he presided signed both bills.

It is conceded that the bills were properly enrolled, signed by the presiding officer of each house, and approved and signed by the governor, and duly filed in the office of the secretary of State.

The defendants insist that these bills so authenticated should be deemed complete and unimpeachable; that such authentication furnishes conclusive evidence that the Legislature complied with all requisite constitutional provisions in their enactment, and that they were duly enrolled, signed, approved and deposited in the public archives.

Section 14, of article 6, of the State Constitution declares that "Each house shall keep a journal of its proceedings, which except in cases of executive sessions shall be published, and the yeas and nays on any question, at the request of five members of house shall be entered upon the journal." This section requires the yeas and nays upon any question to be entered on the journals upon the request of five members. The purpose of this entry appears to be for future reference and publicity——that the members may act under a consciousness of their responsibilitity to their constituents, and to the public.

Section 22, of the same article provides, "The enacting clause of every law shall be: Be it enacted by the Legislature of the State of Utah, and no bill on joint resolution shall be passed except with the assent of a majority of all the numbers elected to each house of the Legislature, and after it has been read three times. The vote upon the final passage of the bills shall be by yeas and nays; and no law shall be revised or amended by reference to its title only; but the act as revised, or section as amended, shall be re-enacted and published at length."

This section prescribes the enacting clause of every law, and requires the assent of a majority of all the members elected to each house thereto after it has been read three times. And a vote by yeas and nays upon its final passage, and forbids the revision of any law by reference to its title; but requires the act revised or section as amended to be enacted and published at length. This section does not expressly require the yeas and nays to be entered on the journals, nor does it say by what means the acts specified shall be evidenced.

Section 24 of the same article declares, "The presiding officer of each house in the presence of the house over which he presides shall sign all bills and joint resolutions passed by the Legislature, after their titles have been publicly read immediately before signing, and the fact of such signing shall be entered upon the journal."

This section requires the title of each bill passed to be publicly read in the presence of each house, and the bill to be then signed, and the fact of signing to be entered on the journal.

Section 8, of article 7, of the same instrument so far as necessary to quote it is, "Every bill passed by the Legislature before it becomes a law, shall be presented to the Governor; if he approve, he shall sign it, and thereupon it shall become a law."

This provision in effect says that every bill passed by the Legislature becomes a law upon being signed by the Governor. But it does not say how the passage of a law shall be evidenced.

Constitutional provisions prescribing modes of enacting laws should be observed. But whether the proof of such observance consists of the enrolled laws deposited in the office of the secretary of state, duly signed by the presiding officers of the respective houses and the approval and signature of the Governor, or of the entries found on the journals of the respective houses furnishes a question as to which the courts of last resort in the various states differ. Objections may be urged to either means of proof. Minutes and memoranda may not always be correctly transcribed upon the journals. And the minutes and memoranda are sometimes made amid circumstances calculated to confuse and distract the attention, and to divert it from the business in hand. Bills may sometimes be enrolled and signed by presiding officers and approved by the governor that have never been duly passed. Either source is subject to possible error. Courts and lawyers will differ as to which is the surest and best source of information. However, when statutes are published people shape their actions and conduct with respect to them, they incur obligations, acquire rights and discharge duties in reliance upon them. If such a law, in any instance, should turn out to be void, because some requirement of the Constitution had not been observed in its passage, great injustice would be likely to follow. We must regard the enrolled bill duly signed, approved, and deposited in the public archives, as a more acceptable and convenient source of authentication, and if referred to, less liable to overturn law, and quite as liable as to the journals of the two houses. The people ought to be required to ransack such journals to ascertain whether laws have been duly passed, and they cannot be expected to do so. Nor should lawyers before advising clients, be required to search such journals. Statutory enactments should not depend and stand upon such a sandy and uncertain foundation, if a better one can be found.

We are of the opinion that the enrollment bill duly signed approved and deposited in the office of the secretary of state is quite as reliable, and more acceptable and convenient than the entries, or the absence of entries of legislative action which may be found on the journals of the two houses. And if relied upon a unimpeachable will be less liable to overturn laws upon which the people have relied, and under which they have acquired rite, incurred obligations, and performed duties—less liable in that way to cause litigation and confusion. The question involves considerations of public policy.

In Lafferty vs Huffman, (a late case decided by the Kentucky Court of Appeals,) the objection to the law was, "That on the final passage in the Senate of the bill as amended in the other House, the vote was not taken by yeas and nays." After a thorough examination of the question similar to the one now under consideration, and the court said:

"From every point of reason, therefore, we are convinced that the enrolled bill, when attested by the presiding officers as the law equires, must be accepted by the courts as the very bill adopted by the legislature, and that its mode of enactment was in conformity to all constitutional requirements. When so authenticated, it imports absolute verity, and is unimpeached by the journals. When we look to the authorities we find, as indicated before, a great diversity of opinion. They are too numerous to be reviewed here. We notice, however, that the more recent cases are adopting the English rule, and holding the enrolled bill conclusive. In several of the cases where the courts felt constrained to follow their former rulings holding the journals competent, regret is expressed that a different rule had not prevailed.

Two Lawyers' Reports Annotated, page 203.

State of Nevada vs Swift, 10 Nevada, 176.

Pangborn vs Young, 32 N. Y., 29.

Sherman vs Story, 30 Cal., 253.

In Field vs Clark, 143 U. S. 649, the court after stating that it was not necessary to decide in that case to what extent the validity of legislative acts may be affected by the failure to enter on the journals matters which